

**PT 99-68**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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| <b>BRUNSWICK COMMUNITY CHURCH</b> | ) | <b>A.H. Docket #</b>            | <b>98-PT-0069</b>    |
| <b>Applicant</b>                  | ) | <b>Docket #</b>                 | <b>98-72-49</b>      |
| <b>v.</b>                         | ) | <b>Parcel Index #</b>           | <b>15-28-400-011</b> |
|                                   | ) |                                 |                      |
| <b>THE DEPARTMENT OF REVENUE</b>  | ) | <b>Barbara S. Rowe</b>          |                      |
| <b>OF THE STATE OF ILLINOIS</b>   | ) | <b>Administrative Law Judge</b> |                      |

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Mrs. Maureen M. Lober, Macy and Lober, for Brunswick Community Church.

Synopsis:

The hearing in this matter was held at the Springfield Office of the Illinois Department of Revenue, (hereinafter referred to as the "Department") on March 31, 1999, to determine whether or not Peoria County Parcel Index No. 15-28-400-011 qualified for exemption during the 1998 assessment year.

Lyle Ray, member, clerk, Sunday school teacher and Sunday school superintendent; Harold Beetler, Pastor; Raedean Windish, member; Toni Smith, attendee; and Raymond Windish, treasurer of the Brunswick Community Church, (hereinafter referred to as the "Applicant") were present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1998 assessment year; secondly, whether the applicant is a religious organization; and

lastly, whether this parcel was used by the applicant for religious purposes during the 1998 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned this parcel during all of the 1998 assessment year. It is also determined that the applicant is a religious organization. Finally, it is determined that the applicant used the parcel for religious purposes during all of 1998.

Findings of Fact:

1. The jurisdiction and position of the Department that Peoria County Parcel Index No. 15-28-400-011 did not qualify for a property tax exemption for the 1998 assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 5. (Tr. p. 12)

2. On July 13, 1998, the Department received a property tax exemption application from the Peoria County Board of Review for Permanent Parcel Index No. 15-28-400-011. The applicant had submitted the request, and the board recommended granting a full year exemption for the 1998-assessment year. The Department assigned Docket No. 98-72-49 to the application. (Dept. Grp. Ex. No. 2)

3. On September 17, 1998, the Department denied the requested exemption application, finding that the property was not in exempt use. (Dept. Ex. No. 3)

4. The applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing at the Department's offices in Springfield, Illinois, on March 31, 1999, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the subject parcel by a township deed dated December 8, 1997. The parcel is a vacant wooded lot adjacent to applicant's existing church property. It is directly south of the church property. (Dept. Ex. No. 2 pp. 3-10, 12-14; Tr. p. 14)

7. The applicant is a non-denominational church. It began as a Presbyterian Church in 1840-1850 with the donation of land and cemetery to the Presbyterian General Assembly. The doors of the church closed for approximately 25 years. In 1941, the church was re-opened. On

November 6, 1949, the applicant was organized as an independent church. (Applicant's Ex. No. 3; Tr. p. 25)

8. In 1998, the applicant had an average Sunday school attendance of 20-25. The worship service had a usual attendance of 25-35. A missionary conference will routinely host an attendance of between 40-60 people. The applicant has Sunday school at 9:45 a.m.; Morning Worship on Sunday at 10:45; Sunday Evening worship at 7:00 p.m.; Wednesday Prayer Meeting at 7:00 p.m.; and Wednesday Young Peoples' meeting at 7:00 p.m. (Applicant's Ex. No. 1; Tr. pp. 26-28)

9. On the application for property tax exemption submitted in this matter, in response to the question of "property description and use" in Part III No. 9, the applicant stated: "Parcel is a small wood lot adjacent to existing church property that may be used for future expansion. Parcel is not currently being used for church activity." Dept. Grp. Ex. No. 2 p. 1)

10. The representative of the applicant that filled out the application was under the mistaken impression that construction or a building had to be on the property in order to answer the question in the affirmative regarding religious use of the parcel. (Tr. pp. 17-18)

11. Submitted with the application was a document entitled "affidavit of use" that was neither executed under oath nor notarized, which stated that it is the intention to use the area as a picnic and youth recreational area and it is the intention to maintain and improve the forest on the property to preserve the aesthetic appearance of the church. (Dept. Ex. No. 2 p. 12)

12. The cemetery is on the other side of applicant's church. At one time the Presbyterian Church owned the entire church, cemetery, and parcel at issue. Applicant's church property divides the cemetery and the parcel in issue. (Applicant's Ex. No. 4; Tr. p. 14)

13. Historically, members of the applicant used the parcel in issue for church activities such as outdoor activities for the youth, daily Vacation Bible School, as a children's play area, for their burning barrel, and for overflow parking. (Tr. pp. 15, 28, 36-)

14. When the applicant became aware that the township was going to dispose of the property at issue, they submitted a sealed bid for the parcel. This piece of property is the only

area where the church would be able to expand. (Tr. p. 15)

15. In 1998, members of the applicant cleared the parcel of dead trees, weeds, and brush. The only access to the subject parcel is through the applicant's driveway. (Applicant's Ex. No. 8; Tr. pp. 18-19, 22, 28)

16. Applicant's daily vacation Bible school took place from June 1, 1998, through June 5, 1998. Traditionally 80-110 children attend applicant's vacation Bible school. Activities in conjunction with vacation Bible school conducted on the subject parcel in 1998 included Bible study, music, crafts, and a picnic. (Applicant's Ex. Nos. 1, 5, 6 & 7; Tr. pp. 28-32, 42-44, 52)

17. The applicant holds its Sunday school classes in the basement of applicant's church. The divider for the two Sunday school classes is a curtain. If the weather is nice, one of the two classes usually goes outside for its lessons. (Tr. pp. 57-59)

18. A wedding was held on the subject parcel in September 1998. A church wiener roast was held on the parcel on October 21, 1998. (Dept. Ex. No. 4; Applicant's Ex. Nos. 7 & 8; Tr. pp. 20, 34, 37)

19. In 1998 during warm weather, the pastor of the applicant walked on the subject parcel and meditated. (Tr. p. 32)

20. I take administrative notice of the fact that the Department granted a property tax exemption to the applicant on March 23, 1988, pursuant to Docket No. 86-72-1934. (Dept. Grp. Ex. No. 2 p. 16)

#### Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago

v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statute exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, . . .

In The People v. Deutsche Gemeinde, 249 Ill. 132 (1911) the Illinois Supreme Court stated:

Unless facts are stated from which it can be seen that the use is religious or a school use in the sense in which the term is used in the constitution the application should be denied. The words used in the constitution are to be taken in their ordinary acceptation and under the rule of strict construction, which excludes all purposes not within the contemplation of the framers of that instrument. While religion, in its broadest sense, includes all forms and phases of belief in existence of superior beings capable of exercising power over the human race, yet in the common understanding and in its application to the people of this State it means the formal recognition of God as members of societies and associations. As applied to the uses of property, a religious purpose means a use of such property by a religious society or body of persons as a stated place for public worship, Sunday schools and religious instruction. *Id.* at 136-137.

I find that the Department has determined that the applicant is a religious organization pursuant to the determination that the applicant qualified for a property tax exemption in Docket No. 86-72-1934. I also find that the applicant acquired the subject parcel by a township deed

dated December 8, 1997, and owned the property during the entire 1998 assessment year. I further find that the applicant's use of the subject property for Sunday school classes, vacation Bible school, a wedding, and meditation by the pastor qualifies the parcel for religious use during 1998.

It is therefore recommended that Peoria County Parcel Index No. 15-28-400-011 be exempt from property taxation for the 1998 assessment year.

Respectfully Submitted,

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Barbara S. Rowe  
Administrative Law Judge  
October 26, 1999